

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 287-299, 319-322, 324, 326-339, 351-361, 389-403, 431-432, 434-442, 446-458, 476-491, 507-517, 553-596, 598-607, and 623-632 are pending in the application, with claims 287, 319, 351, 389, 431, 446, 476, 507, 553, 565, 580, 581, and 595 being the independent claims. Claims 300-318, 340-350, 374-388, 416-430, and 459-475 in addition to previously canceled claims, are sought to be canceled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to pursue the subject matter of these claims in related applications. The Examiner has noted that claims 287-299, 319-322, 324, 326-339, 351-361, 389-403, 431, 432, 434-442, 507-517, 553-596, 598-607, and 623-632 are allowable. Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Prior Rejections

Applicants thank the Examiner for considering Applicants' arguments and subsequently withdrawing the prior rejections. *See* the 04-12-05 Office Action at page 2.

Enablement Rejections under 35 U.S.C. § 112

(a) Claims 446-491 were rejected under 35 U.S.C. § 112, first paragraph as allegedly containing subject matter which was not described in the specification in such as way as to enable one skilled in the art to which it pertains to make the invention. In

compliance with 37 C.F.R. § 1.808, Applicants submit herewith a Statement Concerning the Deposited Clone in which Applicants state that the deposit has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent. Accordingly, Applicants respectfully request that the rejection be reconsidered and removed.

(b) The Examiner has rejected claims 300-304, 307-315, 340-350, 374, 375, 377-385, 416, 417, 419-427, 459-461 and 464-472 under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the enablement requirement. The Examiner has further objected to claims 305, 306, 316-318, 376, 386-388, 418 and 428-430 as being dependent upon a rejected base claim. Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have canceled claims 300-318, 340-350, 374-388, 416-430, and 459-475. Applicants reserve the right to pursue these claims in related applications. Accordingly, Applicants respectfully request that this rejection of claims under 35 U.S.C. § 112, first paragraph be withdrawn.

Written Description Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 300-304, 307-315, 340-350, 374, 375, 377-385, 416, 417, 419-427, 459-461 and 464-472 under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement. The Examiner has further objected to claims 305, 306, 316-318, 376, 386-388, 418 and 428-430 as being dependent upon a rejected base claim. Solely to advance prosecution, and not in acquiescence to the Examiner's rejection, Applicants have canceled claims 300-318, 340-350, 374-388, 416-430, and 459-475. Applicants reserve the right to pursue these claims

in related applications. Accordingly, Applicants respectfully request that this rejection under 35 U.S.C. § 112, first paragraph be withdrawn.


Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ni *et al.*

Application No.: 09/042,583

Filed: March 17, 1998

For: **Death Domain Containing
Receptor 5**

Confirmation No. 5224

Art Unit: 1646

Examiner: Kaufman, Claire M.

Atty. Docket: 1488.1310002/EKS/EJH

Statement Concerning the Deposited cDNA Clone

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Plasmid DNA containing a cDNA clone encoding human Death Domain Containing Receptor 5 (DR5) was deposited under the terms of the Budapest Treaty on March 7, 1997. The deposit was made at the American Type Culture Collection, now located at 10801 University Boulevard, Manassas, Virginia 20110-2209, and was given accession number 97920. Assurance is hereby given that all restrictions on the availability to the public of the deposited plasmid will be irrevocably removed upon the granting of a patent, subject to 37 C.F.R. § 1.808(b).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Kenley K. Hoover, Ph.D.
Attorney for Applicants
Registration No. 40,302

Date: June 22, 2005

1100 New York Avenue, N.W.



American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: 301-231-5519 or 231-5532 • FAX: 301-816-4366

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2



MAR 17 1997

To: (Name and Address of Depositor or Attorney)

HCS PATENT DEPT.

Human Genome Sciences, Inc.
Attn: Robert H. Benson
9410 Key West Avenue
Rockville, MD 20850

Deposited on Behalf of: Human Genome Sciences, Inc.

Identification Reference by Depositor:

ATCC Designation

DNA Plasmid 1989360

97920

REDACTED

The deposits were accompanied by: ___ a scientific description ___ a proposed taxonomic description indicated above.

The deposits were received March 7, 1997 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested March 13, 1997. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: March 14, 1997